MC 2638/2007
BEFORE
HON'BLE JUSTICE B.K. SHARMA

Heard Mr. A.K. Goswami, learned Sr. counsel assisted by Mr. P. Katakey, learned counsel for the applicant/writ petitioner. Also heard Mr. B.D. Das, learned counsel representing the respondent Corporation.

This related writ petition has been filed by the petitioner praying for a direction to the respondent Corporation for one time settlement of the loan taken by the petitioner. While entertaining the writ petition by order dated 30.01.06, no interim order was passed. In Misc. case No. 3270/06, this Court recorded the undertaking furnished by the petitioner towards payment of the term loan and interest amounting to Rs. 72,85,000/- with further undertaking that out of the said undisputed amount, an amount of Rs. 50,00,000/- would be paid by the petitioner by 21.09.06. It was provided in the said order dated 08.09.2006 that in the event of failure to deposit the amount of Rs. 50,00,000/- by 21.09.06, the interim order dated 08.09.06 by which it was provided that the notice dated 28.08.06 under Section 29 of the Financial Corporation Act would remain suspended, would stand vacate.

The petitioner deposited the aforesaid amount of Rs. 50,00,000/- on 19.09.06 and gave an undertaking to deposit another sum of Rs. 50,00,000/- by 15.11.06 and Rs. 54,00,000/- by 22.01.07. It was upon such undertaking, this Court provided for continuation of the interim order till 20.11.06. This was recorded in the order dated 27.09.06.

The petitioner filed yet another application being Misc. case No. 4110/06 praying for further enlargement of time earlier granted. The application was disposed of by order dated 04.12.06 allowing time upto 20.12.06 to deposit the first installment of Rs. 50,00,000/- and the remaining amount of Rs. 54,00,000/- by 22.01.07. It was also stated in the order that in case of non-compliance of the direction, the respondents shall be at liberty to take appropriate action against the petitioner.

The petitioner filed yet another application being Misc. case No. 4678/06 making a prayer therein to allow further time. The application was disposed of by order dated 12.01.07 directing the petitioner invariably to deposit the entire amount of Rs. 94,00,000/- as accrued at that point of time on or before 21.01.07. It was provided that upon failure to make the payment, it would be open for the respondents to take appropriate action as per law.

The petitioner once again filed another application being Misc. case No. 265/07 praying for further extension of time. The application was disposed of by order dated 19.02.07 recording the earlier orders. The Court reluctantly granted further extension upto 15.03.07 to make the entire deposit as might have accrued till then. It was also made clear that no further application for extension of time would be entertained. The respondents were granted liberty to take such course of action as may be admissible to them under the law incase of failure on the part of the applicant/writ petitioner to deposit the accrued amount on or before the agreed date, i.e. 15.03.07.

As in the earlier occasions, the applicant/ writ petitioner did not deposit the amount within the extended and target date and instead, submitted the three cheques dated 15.05.07, 23.05.07 and 30.05.07 respectively amounting to Rs. 30,00,000/- each. The respondent Corporation could not encash the same in absence of there being any deposits in the bank account of the petitioner. Thereafter, the petitioner made further prayer for return of the cheques allowing the petitioner to deposit the amount on or before 11.06.07.

The respondent Corporation has now issued the final notice for possession of unit under Section 29 of S.F.C. Act 1951 for recovery of the outstanding dues amounting to Rs. 1,25,04,044/- as on 30.06.07. The notice has been issued in reference to the earlier notices issued and the aforesaid orders passed by this Court.

Although the petitioner has made a prayer for modification of that part of the order dated 19.02.07 by which it was provided that no further application

for extension of time would be entertained, but such a prayer has been made only upon issuance of the aforesaid notice dated 18.07.07 which has been issued as a natural consequence of the own undertaking of the petitioner and the failure thereof coupled with the orders passed by this Court. The order dated 19.02.07 was passed in presence of the learned counsel for the parties and there was no objection to the same. Now a prayer for modification of the order has been made in view of the issuance of the notice dated 18.07.07. Thus, virtually the petitioner has prayed for review of the order dated 19.02.07 without however, assigning any acceptable ground for review of the same.

I am afraid, the prayer made in this application is wholly misconceived. The applicant has abused the process of the Court by filing numerous applications. The petitioner has not only wasted the Court's precious time but has also taken a chance for a favourable consideration. Inspite of granting several opportunities as per own undertaking of the petitioner, it failed to deposit the amount due to the respondent Corporation.

In view of the above, this application is dismissed awarding a cost of Rs. 15,000/-.